

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of License 948 Permit 2232 (Application 4597)  
**Craig Labadie and Debra Margolis**

**ORDER DIRECTING ISSUANCE OF SEPARATE LICENSES**

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SOURCE: Auburn Ravine tributary to Sacramento River  
COUNTY: Placer

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**WHEREAS:**

1. License 948 was issued to Ethel May Mulligan on January 2, 1931, pursuant to Application 4597 and subsequently assigned to: Chris R. and Marjorie P. Story, trustees of the Story Ranch Trust, and Roy E. and Shirley F. Story in 1981, then Roy E. Story in 1991, and finally Craig Labadie and Debra Margolis in 2001. License 948 was recorded with the County Recorder of Placer on January 20, 1931.
2. Requests for issuance of separate licenses were sent to the State Water Resources Control Board (SWRCB) by letters dated January 21, 2003, June 18, 2003, and June 26, 2003. The SWRCB has determined that good cause for such change has been shown.
3. The original license provided for the diversion of 0.15 cubic feet per second (cfs) to irrigate a 32-acre parcel of land. Division of Water Rights Order dated January 10, 1936 expanded the place of use to 48 acres. Mr. Labadie and Ms. Margolis (1) sold 10 acres to Michael P. Dowd and Laura A. Dowd, (2) sold 10 acres to Harlan G. MacPhee and Cheri L. Labadie, (3) retained a 12.85 acre parcel, and (4) sold 16.89 acres to Jean Labadie. Based on an inspection of the parcel maps, Division staff determined that the 16.89 acre parcel purchased by Jean Labadie is not part of the License 948 place of use. Division staff advised Ms. Labadie that she would need to submit a Change Petition to add this parcel to the License 948 place of use, by letter dated October 29, 2003. Ms. Labadie did not respond to the Division's October 29 letter. Accordingly, the Division is splitting the license three ways. The Division also notes that only 5 acres of the MacPhee parcel is within the authorized place of use. The Licensees confirmed that the License's 0.15 cfs should be assigned to (1), (2), and (3) above based on the proportion of their respective shares to the sum of the licensed acreage within the parcels, by letter dated June 26, 2003.
4. The license terms relating to the continuing authority and water quality objectives of the SWRCB should be updated to conform to section 780(a) and (b), Title 23 of the California Code of Regulations.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be added to the license making the licensee aware of possible obligations resulting from these acts.

6. An appropriate water right license can be reduced or revoked after five continuous years of nonuse, or due to noncompliance with license terms and conditions. To track the status and actual water use under the terms and conditions of the license, the SWRCB Division of Water Rights (Division) regularly distributes a pre-printed form, "Report of Licensee" at three-year intervals. Licensee is requested to expeditiously complete and return the reports to the Division.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. License 948 is hereby replaced and superseded upon the issuance of License 948A to Craig Labadie and Debra Margolis, License 948B to Michael Dowd and Laura Dowd, and License 948C to Cheri Labadie and Harlan MacPhee.
2. Separate licenses be issued as follows:
  - A. License: 948A (Application 4597A)  
Owner: Craig Labadie and Debra Margolis  
50 Tara Road  
Orinda, CA 94563  
Source: Auburn Ravine tributary to Sacramento River  
Use: Irrigation  
Direct Diversion: 0.07 cfs  
Maximum Amount: 21 acre-feet per annum  
Season: May 15 to October 15  
Point of Diversion: By California Coordinate System of 1927, Zone 2,  
North 450,400 feet and East 2,226,600 feet, being within SE¼ of  
SW¼ of Section 9, T12N, R7E, MDB&M  
Place of Use: 12.8 acres located within the SW¼ of Section 9, T12N, R7E,  
MDB&M, as shown on map on file with the SWRCB.
  - B. License: 948B (Application 4597B)  
Owner: Michael P. Dowd and Laura A. Dowd  
P.O Box 646  
Penryn, CA 95663  
Source: Auburn Ravine tributary to Sacramento River  
Use: Irrigation  
Direct Diversion: 0.05 cfs  
Maximum Amount: 16.3 acre-feet per annum

Season: May 15 to October 15

Point of Diversion: By California Coordinate System of 1927, Zone 2,  
North 450,400 feet and East 2,226,600 feet, being within SE¼ of  
SW¼ of Section 9, T12N, R7E, MDB&M

Place of Use: 10 acres located within the SW¼ of Section 9, T12N, R7E,  
MDB&M, as shown on map on file with the SWRCB

C. License: 948C (Application 4597C)

Owner: Harlan G. MacPhee and Cheri L. Labadie  
612 Sand Hill Circle  
Menlo Park, CA 94025

Source: Auburn Ravine tributary to Sacramento River

Use: Irrigation

Direct Diversion: 0.03 cfs

Maximum Amount: 8.2 acre-feet per annum

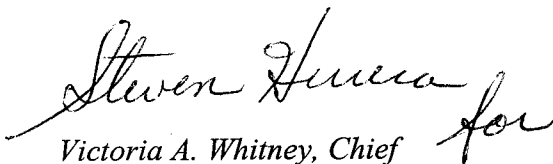
Season: May 15 to October 15

Point of Diversion: By California Coordinate System of 1927, Zone 2,  
North 450,400 feet and East 2,226,600 feet, being within SE¼ of  
SW¼ of Section 9, T12N, R7E, MDB&M

Place of Use: 5 acres located within the SW¼ of Section 9, T12N, R7E,  
MDB&M, as shown on map on file with the SWRCB

3. License 948A, 948B, and 948C shall contain all other terms and conditions presently in License 948 or updated terms to reflect compliance with the SWRCB's policy.

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney, Chief  
Division of Water Rights

Dated: AUG 20 2004

**MAILING LIST**

**REGULAR MAIL**

Craig Labadie and Debra Margolis  
50 Tara Road  
Orinda, CA 94563

Michael P. Dowd and Laura A. Dowd  
P.O. Box 646  
Penryn, CA 95663

Harlan G. MacPhee and Cheri L. Labadie  
612 Sand Hill Circle  
Menlo Park, CA 94025

Roy E. Story and Shirley F. Story  
10050 Willey Court  
Granite Bay, CA 95746

County Recorder  
County of Placer  
175 Fulweiler Avenue, Room 101  
Auburn, CA 95603

Ms. Gean Cain  
Foothill Living Realty  
2100 Auburn Folsom Road, Suite 303  
Auburn, CA 95603

Bcc: Field File

TNSnyder:tns/itziar:6-23-04  
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STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES

## License for Diversion and Use of Water

LICENSE 947

PERMIT 2686

Notice of Assignment (Over)  
APPLICATION 5162

THIS IS TO CERTIFY, That ~~LUCY S. KIMBALL~~ <sup>ASSIGNMENT SEE</sup> Ruth Christiansen, Mary U. Hall, Florence M. Kimball and Mrs. A. Underwood, Burlingame, California ~~have~~ made proof to the satisfaction of the Division of Water Resources of California of a right to the use of the waters of **an unnamed stream in El Dorado County**

tributary of **Lower Echo Lake**

for the purpose of **domestic use**  
under Permit **2686**

of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from **August 19, 1926;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **five hundred (500) gallons per day** from about June 15th to about September 15th of each season.

The point of diversion of such water is located **South forty six degrees East (S 46° E) seven hundred twenty (720) feet from the northwest corner of Section 1, T 11 N, R 17 E, M.D.B. & M.; being within the NW 1/4 of NW 1/4 of said Section 1.**

A description of the lands or the place where such water is put to beneficial use is as follows:

**Lots 4, 5, 6, 7, and 8, Tahoe, Yosemite Trail South Shore Tract, El Dorado Forest being within the NW 1/4 of NW 1/4 of Section 1, T 11 N, R 17 E, M.D.B. & M.  
NE 1/4 of NE 1/4 of Section 2, T 11 N, R 17 E, M.D.B. & M.  
SE 1/4 of SE 1/4 of Section 35, T 12 N, R 17 E, M.D.B. & M.**

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and *providing, further*, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and *providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and *provided, further*, that when such municipality shall desire to use the additional waters granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public  
Works of the State of California, this 2  
day of January, 1931

EDWARD HYATT  
State Engineer

By Harold Conkling  
Deputy

10/19/44 RECEIVED NOTICE OF ASSIGNMENT TO Int. of Lucy S. Kimball to Fred Owen Pierce  
11/14/44 RECEIVED NOTICE OF ASSIGNMENT TO Int. of Florence M. Kimball to Herbert L. & Victoria S. Kimball  
11/14/44 RECEIVED NOTICE OF ASSIGNMENT TO Int. of Ruth Christensen to J. F. Hamman  
1/25/46 RECEIVED NOTICE OF ASSIGNMENT TO Int. of Walter L. Ryan & Mae Lowe to Maybelle Rocca Dale & Laellen Rocca Bobser  
1/25/46 RECEIVED NOTICE OF ASSIGNMENT TO Kimball Water System

LICENSE 947

STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE  
TO APPROPRIATE WATER

Lucy S. Kimball, Ruth Christensen  
ISSUED TO Mary U. Hall, Florence  
M. Kimball and Mrs. A. Underwood  
DATED January 2, 1931